

**MEMORANDUM OF AGREEMENT  
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
PURSUANT TO 36 CFR PART 800.6(c)**

**by**

**THE FEDERAL HIGHWAY ADMINISTRATION, UTAH DIVISION**

**and**

**THE UTAH STATE HISTORIC PRESERVATION OFFICE**

**Concurring Parties Include**

**THE UTAH HISTORIC TRAILS CONSORTIUM**

**THE UTAH DEPARTMENT OF TRANSPORTATION**

**HOPI TRIBE OF ARIZONA**

**PROJECT NO. BHF-0191(27)129E;  
US-191, COLORADO BRIDGE REPLACEMENT**

**WHEREAS**, the Federal Highway Administration, Utah Division, (FHWA), acting as lead agency for implementing Section 106 of the National Historic Preservation Act, has determined that the BHF-0191(27)129E; US-191, Colorado Bridge Replacement will affect properties eligible for inclusion in the National Register of Historic Places, and has consulted with the Utah State Historic Preservation Officer (USHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and Section 4(f) of the Department of Transportation Act of 1966 (23 CFR 771.135); and

**WHEREAS**, the Utah Trails Consortium, the Hopi Tribe of Arizona, and the Utah Department of Transportation (UDOT), have participated in consultation, and have been invited to be signatory in this Memorandum of Agreement (MOA);

**NOW THEREFORE**, the FHWA and the USHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

#### Stipulations

To mitigate adverse effects to historic properties, site 42GR3627, prehistoric lithic scatter, and the UDOT structure 0C-285-0, bridge over the Colorado River, the FHWA shall ensure that the following measures are carried out:

1. SITE 42GR3627: DATA RECOVERY. The FHWA and the UDOT shall ensure that a data recovery plan is developed in consultation with the BLM and the USHPO for the recovery of archaeological information from site 42GR3627. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account Council's publication, Treatment of Archeological Properties: A Handbook (1980) and the relevant concerns of the BLM. The plan will be submitted to the PITU for comment. The data recovery plan shall at minimum specify:

- \* the portion of the sites where data recovery is to be carried out;
- \* the portion of the properties that will be destroyed without data recovery;
- \* the research questions to be addressed through data recovery, with an explanation of their relevance and importance;
- \* the methods to be used, with an explanation of their relevance to the research questions;
- \* the methods to be used in analysis, data management and dissemination of data, including a schedule;
- \* the disposition of recovered materials and records;
- \* a proposed schedule for the submission of progress reports to the USHPO and any other interested parties.

The data recovery plan shall be submitted by the FHWA to the USHPO and the PITU for a 30-day review. Unless any of the parties object within 30 days after receipt of the plan, the FHWA and the UDOT shall ensure that it is implemented before construction at site 42WN2489. A limitation of operations so stating will be included in the contract.

Further, the FHWA shall ensure that all materials, artifacts and records resulting from the data recovery conducted at these sites are curated at the Edge of the Cedars State Park Museum in accordance with 36 CFR Part 79.

2. RECORDATION. The FHWA shall ensure that archival documentation of UDOT Structure 0C-285-0, Bridge over the Colorado River, is completed according to Utah State standards on Intensive Level

Survey forms plus large format black and white photographic documentation before demolition. Temporary fencing will be placed on unaffected site portions to prevent accidental encroachment during construction.

3. FEDERAL AND/OR STATE NAGPRA. If human remains are encountered, the FHWA and the UDOT will comply with the Federal Native American Grave Protection and Repatriation Act of 1990 and any state equivalent. Federal and State NAGPRA applies to human remains discovery under the clause below.

4. DISCOVERY. In accordance with 36 CFR 800.11(a) and (b) (1), the FHWA and the UDOT are providing for the protection, evaluation, and treatment of any historic property discovered before or during construction. UDOT CSI 01355 - Environmental Protection Part 1.10, Discovery of Historic, Archaeological, and Paleontological Resources, applies to this project, stipulating instructions to the contractor for the protection of any discovery in the course of construction. Specifically, upon discovery, construction operations shall be immediately stopped in the vicinity and the Engineer shall be verbally notified of the nature and exact locations of the findings. The Contractor shall not damage the discovered objects and shall provide written confirmation of the discovery to the Engineer within two (2) calendar days. The Engineer then contacts the State archeological authorities and FHWA. The FHWA will consult with the USHPO, the Council, and other affected/ interested parties (includes all potentially interested tribal organizations) in accordance with 36 CFR 800.13(b)(3) toward developing and implementing an appropriate treatment plan before resuming construction. The Engineer will inform the Contractor when the restriction is terminated, with written confirmation following within two (2) calendar days. (*SEE Exhibit 6*).

5. REPORTING. The FHWA shall ensure that any/all reports on activities carried out pursuant to this agreement are provided to the USHPO and the Council, and upon request, to any other interested parties.

6. PERSONNEL QUALIFICATIONS. The FHWA and UDOT shall ensure that all historic work carried out pursuant to this agreement is completed by or under the direct supervision of a person or persons meeting or exceeding the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.

7. DISPUTE RESOLUTION. Should the USHPO or any party to this MOA object within 30 days to any plans, findings, or data provided for review pursuant to this agreement, the FHWA shall consult with them to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

(a) provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding the dispute; or

(b) notify the FHWA that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by FHWA in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

Further, at any time during implementation of the measures stipulated in this agreement, should an objection to any such measure be raised by a member of the public, the FHWA shall take the objections into account and consult as needed with the objecting party, the USHPO, or the Council to resolve the objection.

8. AMENDMENTS. Any party to this MOA may request that it be amended, whereupon the parties will consult in accordance with 36CFR800.6(c)(7) to consider such amendment.

9 COPIES. The FHWA will provide each consulting party with a copy of any memorandum of agreement executed pursuant to stipulation 7.

10. TERMINATION. Any one of the parties, in writing, may terminate their portion of this instrument in whole, or in part, at any time before the date of expiration.

11. REVIEW OF IMPLEMENTATION. If any of the stipulations above have not been implemented by January 1, 2008, the parties to this agreement shall review this agreement to determine whether revisions are needed. If revisions are needed, the parties to this agreement will consult in accordance with 36 CFR 800 to make such revisions.

12. COMPLETION DATE. This instrument is executed as of the date of last signature and, unless sooner terminated, is effective through July 31, 2008 at which time it will expire unless renewed.

13. PRINCIPAL CONTACT. The principal contact for this instrument is:

Pamela Higgins  
NEPA/NHPA Specialist  
Utah Department of Transportation  
Region 4  
1345 South 350 West  
Richfield, Utah 84701  
435-893-4740

Execution of this MOA by FHWA and the USHPO, its subsequent acceptance by the Council, and implementation of its terms, evidence that FHWA has afforded the Council an opportunity to comment on the BHF-0191(27)129E; US-191, Colorado Bridge Replacement undertaking and its effects on historic properties, and that the FHWA has taken into account the effects of the undertaking on historic properties.